

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LEANDRA BROWN,

Plaintiff,

Case No. 24-cv-0362-bhl

v.

PENELOPE DICKSON,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On March 22, 2024, Leandra Brown a state prisoner currently held at the Milwaukee Secure Detention Facility, filed a *pro se* complaint against Penelope Dickson and Midwest Wisconsin Corporate Guardianship, Inc. (ECF No. 1.) On June 17, 2024, Magistrate Judge William E. Duffin screened the complaint and issued a Report recommending that Brown's complaint be dismissed without prejudice but also allowing Brown the opportunity to file an amended complaint to try to state a valid claim. (ECF No. 22.) Brown filed an amended complaint on June 24, 2024, naming only Penelope Dickson as a defendant. (ECF No. 24.) Judge Duffin screened the amended complaint on August 19, 2024 and again recommended dismissal, this time without leave to amend. (ECF No. 28.) The magistrate judge concluded that, even construed liberally, the amended complaint failed to state a plausible federal claim. (*Id.* at 9.) He also concluded that the Court could not exercise its diversity jurisdiction over any potential state law claims because Brown alleged that both he and Dickson are residents of Wisconsin. (*Id.*) Accordingly, Judge Duffin recommended that the amended complaint and the case be dismissed for lack of subject-matter jurisdiction. (*Id.*)

Pursuant to General Local Rule 72(c), 28 U.S.C. § 636(b)(1)(B) and (C), and Federal Rules of Civil Procedure 6(d) and 72(b)(2), Brown had until September 2, 2024 to file and serve written objections to the Magistrate Judge's Report and Recommendation. Once objections are made, this Court must "make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" 28 U.S.C. § 636(b)(1) (emphasis

added). Brown did not file an objection to any portion of the recommendation, either before or after the statutory deadline.¹

After consideration of Judge Duffin's report, and the record as a whole, the Court adopts the Report and Recommendation of the magistrate judge. The record supports Judge Duffin's recommendation to dismiss Brown's amended complaint and this action for failure to state a federal claim and lack of jurisdiction over any state-law claims. Because the dismissal of any state-law claims is for lack of subject-matter jurisdiction, it will be without prejudice.

IT IS HEREBY ORDERED that Magistrate Judge Duffin's Report and Recommendation, ECF No. 28, is **ADOPTED**.

IT IS FURTHER ORDERED that Brown's Amended Complaint, ECF No. 24, and this lawsuit are **DISMISSED** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and for lack of subject-matter jurisdiction. All federal claims are **DISMISSED with prejudice**. All state law claims are **DISMISSED without prejudice**. The Clerk is directed to enter judgment accordingly.

IT IS FURTHER ORDERED that Brown's Motion to Appoint Counsel, ECF No. 29, is **DENIED as moot**.

Dated at Milwaukee, Wisconsin on September 5, 2024.

s/ Brett H. Ludwig

BRETT H. LUDWIG
United States District Judge

¹ Brown filed a motion to appoint counsel and accompanying brief on August 19, 2024. (ECF Nos. 29 & 30.) Because the Court will adopt Judge Duffin's recommendation and dismiss this lawsuit, Brown's motion will be denied as moot.